IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.M. No.26165-M of 2007

Date of Decision: 27.4.2007

Mrs. Santosh

....Petitioner.

Versus

State of Punjab and others.

...Respondents.

Present:- Mr.Deepak Arora and Mr. Prahlad Bhagat,Advocate for the petitioner.

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S.S.SARON, J.(ORAL)

This petition has been filed under Section 482 Cr.P.C. for directing the respondents to proceed with and expedite the investigation of case FIR No.19 dated 17.3.2007 to bring the guilty to book, as per law.

After hearing learned counsel for the petitioner and perusing the record in my view the petitioner has an alternate remedy of approaching the Illaqa Magistrate. In State of Haryana v. Bhajan Lal, AIR 1992 Supreme Court 604, it was observed as follows:

> "The investigation of a cognizable offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into the cognizable offences is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Code and the Courts are not justified in obliterating the track of investigation when the investigating agencies are well within their legal

> bounds as aforementioned. Indeed, a noticeable feature of the scheme under Chapter XIV of the Code is that a Magistrate is kept in the picture at all stages of the police investigation but he is not authorised to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for the redress of any grievance, has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of police echelons since human dignity is a dear value of Constitution. It needs no emphasis that no one can demand absolute immunity even if he is wrong and claim unquestionable right and unlimited powers exercisable up to unfathomable cosmos. Any recognition of such power will be tantamount to recognition of `Divine Power' which no authority on earth can enjoy."

Therefore, keeping in view the above observation if the police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers or the investigating officer do not carry out investigation in accordance with procedure as mandated by law, the

Illaqa Magistrate would be able to over see whether the investigation are being properly carried out.

Keeping in view the afore said position, the petitioner in the first instance is liable to approach the Illaqa Magistrate.

With the above observation, the present petition is disposed of.

(S.S.SARON)
JUDGE

April 27,2007
Reema